

SUMMARY OF PROPOSED FLOOR DRAFT:

Resolution 20-83

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973 (2017 EDITION), AS AMENDED, RELATING TO ETHICS COMMISSION STAFF.

THE PROPOSED FD1 makes the following amendments:

- A. Revises the amendment to Charter Section 11-107 by adding a qualifier that ethics commission staff shall be appointed in a manner consonant with the merit principles set forth in Charter Section 6-1102, the relevant part to read as follows:

All staff positions shall be exempt from the provisions of Chapter 11 of Article VI of this charter~~[, but such staff positions, except the position of executive director and staff attorneys, shall be included in position classification plan.], but shall be appointed in a manner consonant with the merit principles set forth in Section 6-1102 of this charter.~~

- B. Amends the question to be placed on the 2020 general election ballot to add reference to the amendment discussed in Section A above and to also refer to the proposed amendment to Charter Section 11-107 that the salaries of all ethics commission staff be set by the ethics commission, subject to specified limitations, so that the amended question reads as follows:

"Shall the Revised Charter be amended to require ethics commission staff to be appointed based on merit principles, but exempt them from the civil service position classification plan, and to have the salaries of all ethics commission staff set by the ethics commission, subject to specified limitations?"

- C. Makes miscellaneous technical and nonsubstantive amendments.



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. **20-83, FD1**
Proposed

RESOLUTION

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973 (2017 EDITION), AS AMENDED, RELATING TO ETHICS COMMISSION STAFF.

WHEREAS, the Hawaii State Constitution provides that each political subdivision of the state shall adopt a code of ethics, which shall apply to appointed and elected officers and employees of the political subdivision, including members of its boards and commissions and registered lobbyists; and

WHEREAS, the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) ("Charter"), Article XI, establishes standards of conduct that declare that elected and appointed officials and employees shall demonstrate by their example the highest standards of ethical conduct, to the end that the public may justifiably have trust and confidence in the integrity of government, and registered lobbyists; and

WHEREAS, Charter Section 11-107 establishes within the Department of the Corporation Counsel of the City and County of Honolulu ("City"), for administrative purposes only, an Ethics Commission, which consists of seven members; and

WHEREAS, the Charter provides that the Ethics Commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties, which includes among other tasks, educating City officers, employees, and agents of the Standards of Conduct under Charter Article XI and enforcing the City's policies regarding work-related conflicts of interest, gift reporting and acceptance, disclosure of personal and financial conflicts of interest, preferential treatment and misuse of city resources, and lobbyist registration; and

WHEREAS, the Charter provides that Ethics Commission staff shall be exempt from the provisions of Chapter 11 of Article VI of the Charter ("Department of Human Resources"), but such staff positions, except the position of executive director and staff attorneys, shall be included in the position classification plan; and

WHEREAS, the City Council ("Council") acknowledges that the Ethics Commission has undertaken a rigorous multi-year strategic planning effort and determined that a primary objective is to strengthen the internal capabilities and procedures of the Ethics Commission by ensuring adequate and fairly compensated staffing; and

WHEREAS, the Council supports the Ethics Commission's strategic staffing objective to increase specialized staffing to address identified deficiencies and



RESOLUTION

inefficiencies, and to fulfill State constitutional and Charter ethics program and lobbyist program mandates; and

WHEREAS, the Council believes that exempting Ethics Commission staffing from the position classification plan will assist the Ethics Commission in attracting and retaining specialized staffing to achieve its strategic objective; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That the following question be placed on the 2020 general election ballot:

"Shall the Revised Charter be amended to require ethics commission staff to be appointed based on merit principles, but exempt them from the civil service position classification plan, and to have the salaries of all ethics commission staff set by the ethics commission, subject to specified limitations?"

2. That Sections 6-1103 and 11-107 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition), as amended, be further amended to read as follows:

**"Section 6-1103. Civil Service and Executive Branch
Exemptions –**

The provisions of this chapter of the charter shall apply to all positions in the service of the executive branch. This section shall apply to semi-autonomous agencies as though they are departments of the executive branch. The following positions shall be exempt from the provisions of this chapter of the charter:

- (a) Positions of officers elected by public vote; positions of heads of departments; the position of the band director of the Royal Hawaiian Band; the position of the executive for housing; the position of the manager and chief engineer of the board of water supply[;]; the executive for climate change, sustainability and resiliency[;]; and the manager of any semi-autonomous agency created by ordinance.
- (b) Positions in the office of the mayor, but such positions shall be included in the position classification plan. Employees of the civil defense agency and Royal Hawaiian Band, other than the band director, shall not be exempted from civil service.



RESOLUTION

- (c) Positions of deputies of the corporation counsel, deputies and administrative or executive assistants of the prosecuting attorney and law clerks.
- (d) Positions of members of any board, commission or equivalent body.
- (e) Positions of a temporary nature filled by students.
- (f) Personal services obtained by contract where the director has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year.
- (g) Personal services of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service, the director of human resources shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable.
- (h) Personal services performed on a fee, contract or piecework basis by persons who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the city and when such fact is certified to by the director of human resources.
- (i) Positions of one first deputy; and for the [~~Honolulu Police Department~~] police department one additional deputy; private secretaries to heads of departments and their deputies and to the executive for housing; and the position of managing director, one first deputy and private secretaries to each; but private secretarial positions shall be included in the position



RESOLUTION

classification plan. The first deputy in the department of human resources, however, shall not be exempt from civil service.

- (j) Positions or personal services in demonstration programs and joint participation and special projects which serve the community; provided that such exemptions are required by federal law or rules and regulations and then in accordance with procedures established by ordinance.
- (k) The following positions of the public transit authority:
 - (1) The executive director, deputy director(s), private secretaries to the executive director and deputy director(s); and
 - (2) Positions certified by the director of human resources that require specialized knowledge and experience in fixed guideway system planning, development, operations, maintenance, and management, or transit-oriented development; provided that, except for private secretarial positions, such positions shall not be included in the position classification plan and salaries for such positions shall be set by the public transit authority.
- (l) Positions in the liquor commission of the liquor administrator and the deputy liquor administrator, but such positions shall be included in the position classification plan.
- (m) Positions in the ethics commission.

The director of human resources shall determine the applicability of this section of the charter to specific employment or services in the executive branch."

"Section 11-107. Ethics Commission –

There shall be within the department of the corporation counsel for administrative purposes only an ethics commission which shall consist of seven members. The commission shall be governed by the provisions of Section 13-103 of this charter. In accordance with the prohibition in Article XIV of the Constitution of the State of Hawaii, the members of the ethics commission shall be prohibited



RESOLUTION

from taking an active part in political management or in political campaigns.

The commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties. Such staff and consultants may include attorneys who may advise the commission independently of the department of the corporation counsel. All staff positions shall be exempt from the provisions of Chapter 11 of Article VI of this charter~~], but such staff positions, except the position of executive director and staff attorneys, shall be included in position classification plan.], but staff~~ shall be appointed in a manner consonant with the merit principles set forth in Section 6-1102 of this charter. The executive director shall be an attorney qualified to practice law in the State of Hawaii. The salaries of ~~[the executive director and any]~~ all staff [attorneys] positions of the ethics commission shall be set by the ethics commission. The salary of the executive director shall not exceed the salary of the first deputy corporation counsel and the salaries of any other staff attorney shall not exceed the salary of the executive director.

The commission is authorized to hold hearings and to conduct investigations concerning the application of this article of the charter and shall have the powers provided in Section 13-114 of this charter.

The commission may, on its own initiative, render advisory opinions with respect to this article of the charter. An advisory opinion shall be rendered pursuant to a written request of any elected or appointed officer or employee concerned and may be rendered pursuant to the request of any person. The commission shall publish its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the persons involved.

The commission may impose civil fines established by ordinance against elected and appointed officers and employees of the city with significant discretionary or fiscal power as determined by ordinance, found by the commission to have violated the standards of conduct established by this article of the charter or by ordinance. The commission shall recommend appropriate disciplinary action against officers and employees found to have



RESOLUTION

violated the standards of conduct established by this article of the charter or by ordinance. The appointing authority shall promptly notify the commission of the action taken on the recommendation."

3. That in Section 2, Charter material to be repealed is bracketed and stricken and new material is underscored. When revising, compiling, or printing these charter provisions for inclusion in the Revised Charter of the City and County of Honolulu 1973 (2017 Edition), as amended, the Revisor of the Charter need not include the brackets, the bracketed and stricken material, or the underscoring.
4. That if these Charter provisions are amended by any other Charter amendment approved by the electors at the 2020 general election, the Revisor of the Charter, in revising, compiling, or printing the Charter:
 - a. May designate or redesignate articles, chapters, sections, or parts of sections, and rearrange references thereto; and
 - b. Shall, except as otherwise expressly provided in this resolution or in the other resolution(s) amending these Charter provisions, give effect, to the extent possible, to all of the amendments approved.

The Revisor of the Charter may also change the capitalization or the forms of numbers and monetary sums for the sake of uniformity.

5. That upon adoption of this resolution by the Council, the City Clerk be and is hereby directed:
 - a. To prepare the necessary ballots with the question contained in this resolution and with spaces of "yes" and "no" votes on the question for presentation to the electors at the 2020 general election. The City Clerk may make technical and nonsubstantive changes to the form of the question presented in order to conform it to the form of other Charter amendment questions presented to the electors at the same election; and
 - b. To publish the above-proposed Charter amendments at length in a daily newspaper of general circulation in the City and County of Honolulu at least 45 days prior to their submission to the electors at the 2020 general election.



CITY COUNCIL

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No. 20-83, FD1

RESOLUTION

6. That upon approval of the Charter amendment question posed in this resolution by a majority of the voters voting thereon, as duly certified, the Charter amendments proposed in this resolution shall take effect on January 1, 2021.

INTRODUCED BY:

Ron Menor (br)

DATE OF INTRODUCTION:

April 7, 2020
Honolulu, Hawaii

Councilmembers